

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

UNOPPOSED MOTION TO CONTINUE TRIAL

COMES NOW the Defendant, Epifanio Alcaraz-Alcaraz, by and through undersigned counsel, Kevin L. Butler, and moves this Court, pursuant to 18 U.S.C. §§ 3161(h)(1)(G), (h)(1)(I), (h)(6), (h)(8)(B)(i), and (h)(8)(B)(iv) for a continuance of his trial setting of September 17, 2007.

In support of this motion, Defendant would show the following:

1. Mr. Alcaraz-Alcaraz is charged by superseding indictment with possession with intent to distribute narcotics. Trial in this matter is presently scheduled for September 17, 2007.
2. This matter will not proceed to trial.
3. In addition to the charges pending in this district, Mr. Alcaraz-Alcaraz has pending federal charges in the United States District Court for the Western District of Texas Austin Division.
4. In order to preserve judicial, prosecutorial and defense resources, pursuant to Federal Rule of Criminal Procedure 20, the parties have agreed to resolve all pending federal charges/cases in one preceding in the United States District Court for the Western District of Texas Austin Division.¹

¹ The prosecutorial authorities in Texas are in possession of a greater volume of inculpatory evidence against Mr. Alcaraz-Alcaraz. Additionally, the potential penalties against Mr. Alcaraz-Alcaraz are substantially greater in Texas. Therefore, all parties have determined that Texas is the appropriate venue for these proceedings.

5. All parties in this district have signed and executed the Rule 20 paperwork and sent to the Western District of Texas. The parties are awaiting the paperwork's return and finalization.
6. For these reasons, it is in the interest of justice to continue trial in this matter.
7. While requests for a continuance are addressed to the sound discretion of the trial court, *United States v. Darby*, 744 F.2d 1508, 1521 (11th Cir. 1984), *reh'g denied* 749 F.2d 733, *cert. denied*, 471 U.S. 1100 (1985), Mr. Alcaraz-Alcaraz feels that, in this case, the ends of justice will be served by allowing the defense adequate time to finalize a plea agreement and locate all information relevant and necessary to prepare a defense to the charges. Additionally, pursuant to 18 U.S.C. §§ 3161(h)(1)(G), (h)(1)(I), (h)(6), (h)(8)(B)(i), and (h)(8)(B)(iv), this court has authority to continue trial to allow counsel time to investigate this complex case.
8. The United States, through Assistant United States Attorney, Clark Morris, does not oppose the granting of a continuance.

WHEREFORE, for the foregoing reasons, Mr. Alcaraz-Alcaraz respectfully requests that his trial date be continued from the presently scheduled date of September 17, 2007.

Dated this 7th day of September, 2007.

Respectfully submitted,

s/ Kevin L. Butler
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FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

UNITED STATES OF AMERICA

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v.

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Cr. No. 2:07CR30-WHA

)

EPIFANIO ALCARAZ-ALCARAZ

)

aka Manuel Rayos

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CERTIFICATE OF SERVICE

I hereby certify that on September 7, 2007, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

A. Clark Morris, Esquire
Assistant United States Attorney
One Court Square, Suite 201
Montgomery, Alabama 36104

Respectfully submitted,

s/ Kevin L. Butler
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